



DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reports of Transactions with Foreign Financial Agencies

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review - Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by e-mailing PRA@treasury.gov, calling (202) 927-5331, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Reports of transactions with foreign financial agencies (31 CFR 1010.360).

OMB Control Number: 1506-0055.

Type of Review: Renewal without change of a currently approved information collection.

Description: The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Financial Transactions Reporting Act of 1970, as amended by the

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), Public Law 107-56 (October 26, 2001), and other legislation, including most recently the Anti-Money Laundering Act of 2020 (AML Act).[1] The BSA is codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1960, 31 U.S.C. 5311-5314 and 5316-5336, and includes notes thereto, with implementing regulations at 31 CFR Chapter X.

The BSA authorizes the Secretary of the Treasury, *inter alia*, to require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters, or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism, and to implement AML programs and compliance procedures. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.

The Secretary is authorized to require any “resident or citizen of the United States or a person in, and doing business in, the United States, to . . . keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency.” The term “foreign financial agency” (FFA) means any person engaging in any activities outside the United States of a “financial agency,” which the statute defines as “a person acting for a person . . . as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities or gold, or a service provided with respect to money, securities, futures, precious metals, stones and jewels, or value that substitutes for currency.” The Secretary is also authorized to prescribe exemptions to the reporting requirement and to prescribe other matters the Secretary considers necessary to carry out 31 U.S.C. 5314. The regulations implementing reports of transactions with foreign financial agencies are found at 31 CFR 1010.360.

31 CFR 1010.360(a) authorizes the Secretary, when the Secretary deems appropriate, to promulgate regulations requiring specified financial institutions to file reports of certain transactions with designated FFAs.

A regulation promulgated pursuant to 31 CFR 1010.360(a) must designate one or more of the following categories of information to be reported by the specified financial institution:

- Checks or drafts, including traveler's checks, received by a respondent financial institution for collection or credit to the account of a designated FFA, sent by the respondent financial institution to a foreign country for collection or payment, drawn by the respondent financial institution on a designated FFA, or drawn by a designated FFA on the respondent financial institution, including the following information: Name of maker or drawer; name of drawee or drawee financial institution; name of payee; date and amount of instrument; and names of all endorsers.
- Transmittal orders received by a respondent financial institution from a designated FFA or sent by the respondent financial institution to a designated FFA, including all information maintained by that institution pursuant to 31 CFR 1010.410 and 1020.410.
- Loans made by a respondent financial institution to or through a designated FFA, including the following information: Name of borrower; name of person acting for borrower; date and amount of loan; terms of repayment; name of guarantor; rate of interest; method of distributing proceeds; and collateral for loan.
- Commercial paper received or shipped by a respondent financial institution, including the following information: Name of maker; date and amount of paper; due date; certificate number; and amount of transaction.
- Stocks received or shipped by a respondent financial institution, including the following information: Name of corporation; type of stock; certificate number; number of shares; date of certificate; name of registered holder; and amount of transaction.

- Bonds received or shipped by a respondent financial institution, including the following information: Name of issuer; bond number; type of bond series; date issued; due date; rate of interest; amount of transaction; and name of registered holder.
- Certificates of deposit received or shipped by a respondent financial institution, including the following information: Name and address of issuer; date issued; dollar amount; name of registered holder; due date; rate of interest; certificate number; and name and address of issuing agent.

In issuing regulations as provided in 31 CFR 1010.360(a), the Secretary must prescribe: A reasonable classification of financial institutions subject to or exempt from a reporting requirement; a foreign country to which a reporting requirement applies if the Secretary decides that applying the requirement to all foreign countries is unnecessary or undesirable; the magnitude of transactions subject to a reporting requirement; and the kind of transaction subject to or exempt from a reporting requirement.

Regulations issued pursuant to 31 CFR 1010.360(a) may prescribe the manner in which the information is to be reported. However, the Secretary may authorize a designated financial institution to report in a different manner if the institution demonstrates to the Secretary that the form of the required report is unnecessarily burdensome on the institution as prescribed; that a report in a different form will provide all the information the Secretary deems necessary; and that submission of the information in a different manner will not unduly hinder the effective administration of 31 CFR Chapter X.

In issuing regulations under 31 CFR 1010.360(e), the Secretary: (i) Must consider the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a designated FFA; (ii) cannot issue a regulation under 31 CFR 1010.360(a) for the purpose of obtaining individually identifiable account information concerning a customer, as defined by the Right to Financial

Privacy Act, where that customer is already the subject of an ongoing investigation for possible violation of the BSA, or is known by the Secretary to be the subject of an investigation for possible violation of any other Federal law; and (iii) may issue a regulation pursuant to 31 CFR 1010.360(a) requiring a financial institution to report transactions completed prior to the date it received notice of the reporting requirement. However, with respect to completed transactions, a financial institution may be required to provide information only from records required to be maintained pursuant to the requirements of 31 CFR Chapter X, or any other provision of state or Federal law, or otherwise maintained in the regular course of business.

31 CFR 1010.430(d) requires that all records that are required to be retained by Chapter X must be retained for a period of five years.

FinCEN is issuing this notice to renew the OMB control number for regulations requiring reports of transactions with designated FFAs.

Form: None.

Affected Public: Businesses or other for-profit institutions; non-profit institutions.

Estimated Number of Respondents: 9.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 84.

Estimated Total Annual Burden Hours: 11,897 hours.

Authority: 44 U.S.C. 3501 et seq.

Molly Stasko,

Treasury PRA Clearance Officer.

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